

IN THE UNITED STATES COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

THE ESTATE OF IMOGENE RIDENOUR
by executrix Billi Jo Volek and
BILLI JOE VOKEK,

Plaintiffs,

v.

Civil Action No. 1:20-CV-202
Honorable Judge Keeley

G. RUSSELL ROLLYSON, JR.,
Deputy Commissioner of Delinquent
and Nonentered Lands of Marion County, WV,
in his official and personal capacities,

Defendant.

NOTICE OF NON-PARTIES WHOLLY OR PARTIALLY AT FAULT

COMES NOW the Defendant, G. Russell Rollyson, Jr., by his undersigned counsel, David P. Cook, Jr., and the law firm of MacCorkle Lavender, PLLC, and hereby provides this notice of non-parties who may be wholly or partially at fault in this case, pursuant to West Virginia Code §55-7-13d.

Neither this Notice nor future amendments to it may be construed as waiving the Defendant's individual ability and right to argue and present evidence that these non-parties are the sole and proximate cause of any and all complaints made and injuries and damages claimed by the Plaintiffs. Discovery in this case is continuing, and the Defendant therefore reserves the right to modify, alter, or amend this notice in any way.

1. Wonderfully Wild LLC. Upon information and belief, Wonderfully Wild LLC's principal place of business is 1543 Fairmont Avenue, Suite 205, Fairmont, WV 26554. Wonderfully Wild LLC, as the tax lien purchaser, is statutorily responsible to provide the State Auditor with a list of names and addresses of those to be served with notice to

redeem. Insofar as Wonderfully Wild LLC failed to strictly comply with the statutory requirements, Wonderfully Wild LLC may be wholly or partially at fault for the damages claimed by the Plaintiffs in this case.

2. All parties and non-parties who enter into any settlements or settlement agreements, at any time, related to the claims alleged in the complaint and any amended complaints, claims alleged in this case, and injuries and damages alleged in this case.

3. All named Co-Defendants that have not appeared in this action, that have not been served, that have been dismissed, settled, and/or that may be dismissed in the future, were or may have been wholly or partially at fault in contributing to the alleged claims and damages asserted by the Plaintiffs in this Civil Action.

4. This Defendant adopts and incorporates by reference, as applicable, any non-party disclosed on any Co-Defendant's non-party at fault notices.

5. This Defendant does not waive any defenses by the filing of this Notice.

6. As set forth by W.Va. Code §55-7-13d(a)(1), "the trier of fact shall consider the fault of all persons who contributed to the alleged damages regardless of whether the person was or could have been named as a party to the suit." W.Va. Code §55-7-13d(a)(1). "In all instances where a nonparty is assessed a percentage of fault, any recovery by a plaintiff shall be reduced in proportion to the percentage of fault chargeable to such nonparty." W.Va. Code §55-7-13d(a)(3). Pursuant to W.Va. Code §55-7-13d(a), the Defendant, therefore, respectfully requests that this Court direct the trier of fact to consider the fault of all non-parties identified above and further reduce any recovery by the Plaintiffs in proportion to the percentage of fault chargeable against each such non-party.

G. Russell Rollyson, Jr.,

By counsel,

/s/ David P. Cook, Jr.

David P. Cook, Jr., Esquire (WVSB #9905)
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CERTIFICATE OF SERVICE

I, David P. Cook, Jr., counsel for Defendant, G. Russel Rollyson, Jr., do hereby certify that on December 1, 2020, I served a true and correct copy of the foregoing NOTICE OF NON-PARTIES WHOLLY OR PARTIALLY AT FAULT upon all counsel/parties of record, via the Court's electronic filing system and addressed as follows::

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/s/ David P. Cook, Jr.

David P. Cook, Jr., Esq. (WVSB #9905)

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